

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

SEAN MICHAEL LANDRY,

Plaintiff,

v.

MARK THOMAS, *et al.*,

Defendants.

CASE NO. C21-1669-JCC

ORDER

This matter comes before the Court on Defendants’ motion for partial summary judgment (Dkt. Nos. 12, 19-1 (corrected version).) Having thoroughly considered the briefing and the relevant record, the Court hereby GRANTS Defendants’ motion for the reasons explained below.

**I. BACKGROUND**

Plaintiff alleges that, while in pretrial detention at the Marysville Municipal Jail, guards ignored his reported medical symptoms and failed to timely summon Emergency Medical Technicians (“EMTs”). (Dkt. Nos. 20-1 at 2–4; 1 at 5–8, 10.) According to Plaintiff, when the EMTs arrived and examined him, they told guards he was healthy, causing the guards to return him to his cell. (Dkt. Nos. 20-1 at 5; 1 at 8–9.) An EMT returned to examine Plaintiff and alerted the guards that he needed medical attention. (Dkt. Nos. 20-1 at 5–6; 1 at 9.) Police transported Plaintiff to the hospital where an examination revealed that he had suffered a series of strokes. (Dkt. Nos. 20-1 at 6; 1 at 9.)

1 Plaintiff filed this 42 U.S.C. § 1983 lawsuit alleging that Defendants provided inadequate  
 2 medical care to him while he was detained in the jail, in violation of the Fourteenth Amendment.  
 3 (Dkt. No. 1 at 15.) He named as Defendants the City of Marysville (“Marysville”), the municipal  
 4 corporation that operates the jail; and the Marysville Fire District (“Fire District”), the municipal  
 5 corporation that employed the EMTs. (*Id.* at 4.) Plaintiff also named as Defendants individual  
 6 employees of each entity. (*Id.*)

7 Defendants now seek partial summary judgment as to Plaintiff’s claims against the Fire  
 8 District and the individual Fire District employees (together, the “Fire District Defendants”).  
 9 (Dkt. No. 19-1 at 2.) Defendants also ask the Court to dismiss claims against Defendants Thomas  
 10 and Jones (the “Marysville Supervisors”). (*Id.*)

11 Plaintiff agrees to dismiss his claims against two Fire District employees and against the  
 12 Marysville Supervisors, but asks that summary judgment be denied as to the remaining Fire  
 13 District Defendants. (Dkt. No. 20 at 2–3.)<sup>1</sup>

## 14 **II. DISCUSSION**

### 15 **A. Legal Standard**

16 “The court shall grant summary judgment if the movant shows that there is no genuine  
 17 dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R.  
 18 Civ. P. 56(a). In making such a determination, the Court must view the facts in the light most  
 19 favorable to the nonmoving party and draw justifiable inferences in that party’s favor. *Anderson v.*  
 20 *Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986). Once a motion for summary judgment is properly  
 21 made and supported, the opposing party “must come forward with ‘specific facts showing that  
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 24 <sup>1</sup> Plaintiff also requests that portions of Defendants’ supporting declarations that excerpt  
 25 or paraphrase Plaintiff’s medical records, (Dkt. Nos. 14 at 2, 15 at 2), be stricken as hearsay and  
 26 for lack of foundation. (Dkt. No. 20 at 2, 11.) On summary judgment, “[a] party may object that  
 the material cited to support or dispute a fact cannot be presented in a form that would be  
 admissible in evidence.” Fed. R. Civ. P. 56(c)(2). The Court does not resolve this dispute  
 because the information at issue is unnecessary to resolve the pending motion.

1 there is a genuine issue for trial.” *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S.  
 2 574, 587 (1986) (quoting Fed. R. Civ. P. 56(e)). Material facts are those that may affect the  
 3 outcome of the case, and a dispute about a material fact is genuine if there is sufficient evidence for  
 4 a reasonable jury to return a verdict for the nonmoving party. *Anderson*, 477 U.S. at 248–49.  
 5 Conclusory, non-specific statements in affidavits are not sufficient, and “missing facts” will not be  
 6 “presumed.” *Lujan v. Nat’l Wildlife Fed’n*, 497 U.S. 871, 888–89 (1990). Ultimately, summary  
 7 judgment is appropriate against a party who “fails to make a showing sufficient to establish the  
 8 existence of an element essential to that party’s case, and on which that party will bear the burden  
 9 of proof at trial.” *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986).

10 Plaintiff’s complaint alleges inadequate medical care during confinement under the  
 11 Fourteenth Amendment. (Dkt. No. 1 at 15.) Ordinarily, there is no affirmative, constitutional duty  
 12 to provide medical care; neither awareness of a citizen’s risk of harm, nor expressing an intention  
 13 to help, confers such a duty on a government actor. *DeShaney v. Winnebago Cnty. Dep’t of Soc.*  
 14 *Servs.*, 489 U.S. 189, 199–200 (1989). Under the special relationship exception, however, an  
 15 affirmative duty to provide medical care arises when a state “takes a person into its custody and  
 16 holds him there against his will” such as through “incarceration, institutionalization, or other  
 17 similar restraint of personal liberty.” *Id.* at 199–200. Correspondingly, “[j]ail officials have a duty  
 18 to ensure that detainees are provided adequate . . . medical care.” *Shorter v. Baca*, 895 F.3d 1176,  
 19 1185 (9th Cir. 2018) (citing *Johnson v. Lewis*, 217 F.3d 726, 731 (9th Cir. 2000)).

## 20 **B. Plaintiff’s Claims Against the Fire District Defendants**

21 To establish failure to provide adequate medical care in pretrial detention, a plaintiff must  
 22 show that the defendant acted with “objective deliberate indifference.” *Gordon v. Cnty. of*  
 23 *Orange*, 888 F.3d 1118, 1125 (9th Cir. 2018) (clarifying how Fourteenth Amendment medical  
 24 care claims differ from Eighth Amendment claims in which a subjective deliberate indifference  
 25 standard applies). This requires showing that (1) the defendant made an intentional decision with  
 26 respect to the conditions under which the plaintiff was confined; (2) those conditions put the

1 plaintiff at substantial risk of suffering serious harm; (3) the defendant did not take reasonable  
 2 available measures to abate that risk, even though a reasonable official in the circumstances  
 3 would have appreciated the high degree of risk involved—making the consequences of the  
 4 defendant's conduct obvious; and (4) by not taking such measures, the defendant caused the  
 5 plaintiff's injuries. *Id.* “[A] mere failure to diagnose or prescribe treatment” is insufficient to  
 6 demonstrate objectively deliberate indifference. *Wilhelm v. Rotman*, 680 F.3d 1113, 1123 (9th  
 7 Cir. 2012) (no liability for doctor who failed to diagnose a hernia).<sup>2</sup>

8 At most, Plaintiff’s evidence shows that the EMTs failed to diagnose him with stroke,  
 9 and that failure contributed to the jail guards’ medical care decisions. (*See* Dkt. Nos. 16 at 2–3,  
 10 20-1 at 6.) It does not, however, create an issue of fact as to whether any EMT acted with  
 11 objective deliberate indifference toward Plaintiff. The EMTs’ failure to diagnose Plaintiff’s  
 12 condition does not rise to the level of a constitutional violation, and Plaintiff does not provide  
 13 facts or case law to suggest otherwise.

14 Moreover, because Plaintiff provides no facts showing that the EMTs violated his  
 15 constitutional rights, his claims against the Fire District supervisors also fail. *See Boyd v. Benton*  
 16 *Cnty.*, 374 F.3d 773, 780–81 (9th Cir. 2004) (Supervisors are liable for *constitutional violations*  
 17 in which they are “integral participant[s],” even if the supervisor’s individual role does not “rise  
 18 to the level of a constitutional violation.”)

### 19 **C. Plaintiff’s Claims Against the Marysville Supervisor Defendants**

20 Plaintiff “agree[s] to dismiss” his claims against Defendants Thomas and Jones but states  
 21 he may wish to “revisit” those claims after discovery.<sup>3</sup> (Dkt. No. 20 at 3.) Because the parties  
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 24 <sup>2</sup> *See also Farley v. Capot*, 384 F. App’x 685, 686 (9th Cir. 2010) (no liability for failure  
 25 to diagnose inmate’s abdominal pain); *Ruvalcaba v. City of Los Angeles*, 167 F.3d 514, 525 (9th  
 26 Cir. 1999) (same).

<sup>3</sup> Plaintiff also agrees to dismiss claims against Maloney and Jones. (Dkt. No. 20 at 3.)  
 Defendants Maloney and Neuhoff are Fire District supervisors, (Dkt. No. 1 at 20), so claims  
 against them are dismissed with prejudice for the foregoing reasons. *See supra* Part II.B. Jones

1 have not filed a stipulation under Federal Rule of Civil Procedure 41(a)(1)(A)(ii), the Court  
 2 interprets this as a request to dismiss the claims without prejudice under Federal Rule of Civil  
 3 Procedure 41(a)(2).

4 “When ruling on a [plaintiff’s] motion to dismiss without prejudice, the district court  
 5 must determine whether the defendant will suffer some plain legal prejudice as a result of the  
 6 dismissal.” *Westlands Water Dist. v. United States*, 100 F.3d 94, 96 (9th Cir. 1996). Here,  
 7 Defendants welcome Plaintiff’s request to voluntarily dismiss Thomas and Jones. (Dkt. No. 21 at  
 8 4.) The Court thus GRANTS Plaintiff’s request to dismiss Thomas and Jones without prejudice  
 9 and DENIES as moot the partial summary judgment motion as to them.

### 10 **III. CONCLUSION**

11 For the foregoing reasons, Defendants’ motion for partial summary judgment (Dkt. No.  
 12 19-1) and Plaintiff’s motion to dismiss Thomas and Jones without prejudice (Dkt. No. 20 at 3)  
 13 are GRANTED. The Court DISMISSES the claims against all Fire District Defendants  
 14 (Defendants Martin and Jane Doe McFalls, Jeff and Jane Doe Cole, Tom and Jane Doe Maloney,  
 15 Darryl and Jane Doe Neuhoff, John Doe EMTs, Jane Doe EMTs, and Marysville Fire District)  
 16 with prejudice and DISMISSES the claims against Defendants Mark and Jane Doe Thomas and  
 17 Chris and Jane Doe Jones without prejudice.

18 DATED this 9th day of June 2022.

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John C. Coughenour  
 UNITED STATES DISTRICT JUDGE

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and Thomas, however, work for the Marysville Police Department, (Dkt. Nos. 13 at 2, 18 at 2),  
 so claims against them must be considered separately.